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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Western Sahara

Working paper prepared by the Secretariat

I. Report and good offices of the Secretary-General

1. Pursuant to General Assembly resolution 69/101, the Secretary-General submitted to the Assembly at its seventieth session a report on the question of Western Sahara (A/70/201). The report covered the period from 1 July 2014 to 30 June 2015 and contained a review of the activities carried out by the Secretary General in the exercise of his good offices.

2. Also during the period under review, pursuant to Security Council resolution 2152 (2014), the Secretary-General submitted a report on 10 April 2015 to the Council on the situation concerning Western Sahara (S/2015/246).

3. In its resolution 2152 (2014), the Security Council called upon all parties to cooperate fully with the operations of the United Nations Mission for the Referendum in Western Sahara (MINURSO), including its free interaction with all interlocutors, and to take the steps necessary to ensure the security of and unhindered movement and immediate access for the United Nations and associated personnel in carrying out their mandate, in conformity with existing agreements. The Council also called upon the parties to continue to show political will and work in an atmosphere propitious for dialogue and requested the Secretary-General to brief the Council on the implementation of the resolution, challenges to MINURSO operations and steps taken to address them. The Council acceded to the Secretary-General's request for an additional 15 United Nations military observers, within existing resources, and decided to extend the mandate of MINURSO until 30 April 2015.

4. The report of the Secretary-General to the Security Council (S/2015/246) covered developments since his previous report, dated 10 April 2014 (S/2014/258), and provided, among other things, information on the situation on the ground, the status and progress of the negotiations on the future of Western Sahara, the implementation of resolution 2152 (2014), the activities of MINURSO, steps taken

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to address existing challenges to the Mission's operations and humanitarian activities. It concluded with observations and recommendations.

5. In that report, the Secretary-General indicated that the situation in Western Sahara, as it presented itself to MINURSO, was generally calm and the ceasefire was continuing to hold. Tensions between the parties and periodic incidents and demonstrations had not had a major effect on the overall environment during the period under review. He referred to a statement by King Mohammed VI on the occasion of the 6 November 2014 anniversary of the 1975 "Green March", as well as the reaction, on 8 November 2014, by the Frente Popular para la Liberación de Saguia el-Hamra y de Rio de Oro (Frente Polisario), which had been critical.

6. The Secretary-General stated that, in the refugee camps near Tindouf, Algeria, life and social activities were being conducted peacefully and in a relatively calm atmosphere. However, the severe living conditions had declined further as a result of reductions in international humanitarian aid and camp inhabitants were continuing to suffer from chronic unemployment and reduced remittances. Those conditions were presenting political, economic and security concerns. Two demonstrations had been held in the Laayoune camp and five in Rabouni during the reporting period.

7. With regard to the activities of his Personal Envoy, the Secretary-General indicated that, following the publication of his previous report (S/2014/258) on 10 April 2014, Morocco had expressed strong reservations regarding some elements of the report, the contours of the negotiating process and the mandate of MINURSO. He noted that Morocco had agreed in principle to the continuation of his Personal Envoy's bilateral consultations and shuttle diplomacy and to the deployment of his new Special Representative for Western Sahara and Head of MINURSO. Morocco had, however, also asked to enter into a dialogue on the issues concerning it before re-engaging, stating that it had sought clarification for the purpose of ensuring that the negotiating process would proceed smoothly, including with regard to the preparation of the report to the Security Council. The Secretary-General also indicated that he and King Mohammed VI had spoken by telephone and agreed on the way forward. A full account of the first set of consultations in the region in almost a year, including with members of the Group of Friends of Western Sahara, undertaken by the Personal Envoy can be found in the report of the Secretary-General (S/2015/246).

8. With regard to the activities of MINURSO, the Secretary-General reported that the period during which his Special Representative had been unable to deploy to MINURSO had marked a decline in the Mission's engagement with the authorities west of the berm, including in contacts with senior officials, whose interlocutor in implementing the Mission's mandate was normally the Special Representative.

9. The Secretary-General also noted that the Mission's assessment was that both parties remained fully committed to and respectful of the ceasefire and their observed violations did not jeopardize it in the medium term. Rather, as had been observed in previous reports, they had resulted in a gradual shift in the original military status quo over the years.

10. The Secretary-General also indicated that MINURSO had continued to advocate that any discrepancies vis-à-vis the determination of ceasefire monitoring

violations and potential security concerns in that context be addressed in the framework of military agreement No. 1.

11. On mine action, the Secretary-General informed the Security Council that the contamination of Western Sahara by landmines and explosive remnants of war was continuing to endanger the lives of local, nomadic and refugee populations, as well as MINURSO military observers and logistical teams.

12. The Secretary-General indicated that, while the security environment in Western Sahara appeared generally stable, the longer-term effects of regional instability remained of concern for the Mission, the parties and their neighbours, all of whom had taken additional security measures to prevent infiltration by radical groups. Given the potential effects of increasing regional insecurity, MINURSO had enhanced attention to and assessment of the security conditions in its area of operation, requiring military observers to maintain a state of high alert and to keep the Mission abreast of suspected illegal activities that could affect their safety. The Department of Peacekeeping Operations had conducted a military capability study of the MINURSO military component in March 2015, in which it had reviewed the current configuration and operational capacities relative to mandated tasks, existing challenges and projected risks to mandate implementation and personnel, factoring in regional security dynamics.

13. On substantive civilian activities, the Secretary-General indicated that, during the early part of the reporting period, his outgoing Special Representative had maintained constructive contacts with the parties on all issues relating to the Mission's mandate, primarily through the respective coordination offices and directly with the Frente Polisario leadership. During the remainder of the period, the Acting Head of Mission, as well as the political affairs component and the liaison office in Tindouf, had continued interactions, to the extent possible, pending the arrival of his new Special Representative. His new Special Representative, Kim Bolduc, had arrived in the Mission on 6 February 2015, following the conclusion of her predecessor's assignment on 31 July 2014. Beginning on 15 November 2014, the MINURSO leadership function had been performed by Ms. Bolduc from Headquarters.

14. The Secretary-General indicated that both parties were continuing to diverge significantly in their interpretation of the MINURSO mandate and that those opposing views were having a direct impact on the credibility of the Mission vis-à-vis the parties, affecting its ability to fully implement its mandate and exercise standard peacekeeping functions. For the United Nations, the successive Security Council resolutions defined the mandate of MINURSO. The standard peacekeeping functions performed by United Nations operations throughout the world underpinned effective mandate implementation, including assessments of and reporting on local conditions that might affect their operations and political processes. The Secretary-General noted that the perception of MINURSO and United Nations impartiality continued to be affected by the operation of MINURSO vehicles with Moroccan license plates west of the berm. The implementation of the verbal agreement of March 2014 with the Moroccan authorities to gradually replace Moroccan license plates with United Nations license plates for MINURSO vehicles, as agreed with his previous Special Representative (see S/2014/258, para. 50), had not begun. The Minister for Foreign Affairs had reiterated that commitment to the new Special Representative in February 2015.

15. With regard to humanitarian activities and human rights, the Secretary-General indicated that the International Committee of the Red Cross, playing a role as neutral intermediary, was continuing to work with the parties and families concerned in treating cases of persons still unaccounted for in relation to the past conflict.

16. With regard to assistance to and protection of Saharan refugees, the Secretary-General indicated that the Office of the United Nations High Commissioner for Refugees (UNHCR) was continuing to provide international protection and, together with its partners, basic life-saving assistance to refugees in the camps near Tindouf, including through the implementation of multisectoral activities in the areas of water, sanitation, health, nutrition, shelter and distribution of non-food items. Pending the registration of the refugees in the camps near Tindouf, the humanitarian assistance provided by UNHCR and the World Food Programme was continuing to be based on a population planning figure of 90,000 vulnerable refugees, with the latter furnishing an additional 35,000 food rations to persons with poor nutritional status in the camps. A more detailed account of the assistance provided can be found in the report of the Secretary-General.

17. With regard to confidence-building measures, the Secretary-General informed the Security Council that, in conformity with its mandate and principles, and with the cooperation of both the Government of Morocco and Frente Polisario, UNHCR had implemented the confidence-building measures programme from April to June 2014, striving to facilitate contact and communication between refugees in the camps near Tindouf and their families west of the berm. Family visits, cultural seminars and coordination meetings in Geneva between the two parties, with the two neighbouring States, Algeria and Mauritania, as observers, had remained the three fundamental components of the updated January 2012 plan of action for the programme. MINURSO was supporting the programme by providing medical staff and police officers to facilitate preparations and escort beneficiaries to their destinations. The Secretary-General indicated that 20,699 individuals had benefited from the family visits programme since 2004. Of that total, 997 persons had participated in the visits from January to June 2014, including 641 from the Saharan refugee camps near Tindouf and 356 from west of the berm. Flights for the visits had been suspended since June 2014 because of disagreements between the two parties over the list of candidates for visits. The Secretary-General also indicated that, since then, no coordination meeting had been held and that UNHCR remained ready to facilitate the dialogue required for a prompt resumption of the programme through the existing coordination mechanism.

18. The Secretary-General also informed the Security Council that, as jointly agreed, a technical team from the Office of the United Nations High Commissioner for Human Rights (OHCHR) had visited Laayoune and Dakhla in Western Sahara from 28 April to 2 May 2014 to help to prepare the visit of the United Nations High Commissioner for Human Rights to Morocco, which had been held from 27 to 29 May 2014. An account of the visit is contained in the report of the Secretary-General, along with other information relating to human rights, including activities carried out by the offices of the National Human Rights Council in Laayoune and Dakhla, concerns by the Working Group on Arbitrary Detention, the accession of Morocco to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the adoption by Parliament of a new code on military justice, the concluding observations concerning Morocco

published by the Committee on the Rights of the Child, and investment in the territorial waters adjacent to Western Sahara that continued to be a subject of contention between the Government of Morocco and Frente Polisario.

19. In his observations and recommendations, the Secretary-General indicated that, given the lack of progress towards a resolution of the dispute over the status of Western Sahara, which had not changed since his previous report, the efforts of the United Nations through the work of his Personal Envoy and of MINURSO remained highly relevant. Growing frustrations among Saharans, coupled with the geographical expansion of criminal and extremist networks in the Sahelo-Saharan zone, were presenting increased risks for the stability and security of the region. A settlement of the Western Sahara conflict would mitigate those potential risks. The Secretary-General reiterated his call upon the parties to seriously engage with his Personal Envoy and to sustain and intensify their efforts to negotiate a mutually acceptable political solution that would provide for the self-determination of the people of Western Sahara.

20. The Secretary-General indicated that it was too early to provide an indication of whether the new approach of bilateral consultations and shuttle diplomacy launched by his Personal Envoy would prove fruitful. He expected, however, that his Personal Envoy would enjoy the effective support of the members of the Security Council and the full cooperation of the parties and neighbouring States. Forty years after the beginning of the conflict and eight years after the presentation of the parties' proposals, there could be no justification for continuing to maintain the status quo and failing to engage constructively and imaginatively in the search for a solution.

21. The Secretary-General welcomed the parties' discussion of military agreement No. 1, governing the ceasefire monitoring regime, and called for continued and constructive cooperation with the Mission to move forward on the issues involved. He stated that MINURSO was carrying out important duties that derived from Security Council resolutions and normal peacekeeping functions and therefore sought the assistance of the Council in supporting the mandated role of MINURSO, upholding peacekeeping standards and the impartiality of the United Nations and ensuring that conditions for the successful operation of the Mission were met. The Mission's presence was relevant to ensure the parties' observation of the ceasefire and as a visible representation of the international community's commitment to achieving a resolution to the conflict. As broad engagement across sectors and communities was essential for any peacekeeping mission, the Secretary-General expressed his hope that, in particular, the remaining limitations on the Mission's "free interaction with all interlocutors", as cited in Council resolutions 2044 (2012), 2099 (2013) and 2152 (2014), would be removed. In that context, and in the light of the continuing efforts of his Personal Envoy, and the continuing importance of MINURSO, the Secretary-General recommended that the Council should extend the mandate of MINURSO for a further 12 months, until 30 April 2016.

22. The Secretary-General also expressed concern about the suspension of family visits and seminars under the confidence-building measures programme. He therefore encouraged the parties to re-engage in dialogue and resolve any outstanding issues with the aim of resuming those important humanitarian programmes for the benefit of the entire Saharan population.

23. The Secretary-General urged the international community to provide urgent additional funding for the UNHCR mandate programme in the refugee camps near Tindouf. He also noted the continuing questions about the number of refugees requiring assistance, which highlighted the need to address the registration of the refugee population.

24. The Secretary-General commended the positive steps taken by Morocco with regard to the protection of human rights during the reporting period, including the adoption of a new code on military justice and its accession to the Optional Protocol to the Convention against Torture. While welcoming those developments, however, he called upon the parties to continue and further enhance their cooperation with United Nations human rights mechanisms and OHCHR, including by facilitating OHCHR missions to Western Sahara and to the refugee camps near Tindouf, with unrestricted access to all relevant stakeholders.

25. The Secretary-General noted that those missions and other future forms of cooperation between the parties and OHCHR and other United Nations human rights mechanisms should contribute to an independent and impartial understanding of the human rights situation in both Western Sahara and the camps, with the goal of ensuring the protection of all, as well as to the comprehensive and sustained implementation of international human rights standards by the parties. He also noted that human rights had no borders and all stakeholders were thus obliged to uphold the fundamental freedoms and human rights of all people. It was vital for all human rights protection gaps and underlying human rights issues in situations of protracted conflict to be addressed. That would also contribute to creating an environment conducive to the negotiating process.

26. The Secretary-General noted that, in the light of the increased interest in the natural resources of Western Sahara, it was timely to call upon all relevant actors to "recognize the principle that the interests of the inhabitants of these territories are paramount", in accordance with Article 73 of the Charter of the United Nations.

II. Consideration by the Security Council

27. Following its consideration of the report of the Secretary-General, the Security Council unanimously adopted resolution 2218 (2015) on 28 April 2015, by which it reaffirmed the need for full respect of the military agreements; called upon all parties to cooperate fully with the operations of MINURSO and ensure the security of and unhindered movement and immediate access for the United Nations and associated personnel in carrying out their mandate; called upon the parties to continue to show political will, work in an atmosphere propitious for dialogue in order to enter into a more intensive and substantive phase of negotiations and continue negotiations under the auspices of the Secretary-General without preconditions and in good faith, with a view to achieving a just, lasting and mutually acceptable political solution that would provide for the self-determination of the people of Western Sahara in the context of arrangements consistent with the principles and purposes of the Charter; and noted the role and responsibilities of the parties in that respect. The Council decided to extend the mandate of MINURSO until 30 April 2016.

III. Consideration by the General Assembly

28. During the debate from 7 to 15 October 2015, the Special Political and Decolonization Committee (Fourth Committee) heard statements by 70 petitioners on the question of Western Sahara (see A/C.4/70/SR.3-5). On 7, 8 and 15 October, Member States addressed, among other things, the issue of Western Sahara. Some of them expressed strong support for the right of the Saharans to self-determination and reaffirmed their support for the relevant General Assembly and Security Council resolutions and the efforts of the Secretary-General and his Personal Envoy. Others expressed the belief that the autonomy plan by Morocco offered a realistic and viable option that could provide the best prospect for achieving a mutually acceptable solution to the question (see A/C.4/70/SR.2, 6 and 7).

29. At its 7th meeting, on 15 October 2015, the Committee had before it a draft resolution entitled "Question of Western Sahara" (A/C.4/70/L.4), submitted by the Chair, which it adopted without a vote.

30. On 9 December 2015, the General Assembly adopted the draft resolution, without a vote, as resolution 70/98. In that resolution, the Assembly, among other things, welcomed the commitment of the parties to continue to show political will and work in an atmosphere propitious for dialogue and the ongoing negotiations between the parties; called upon the parties to cooperate with the International Committee of the Red Cross and to abide by their obligations under international humanitarian law; requested the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples to continue to consider the situation in Western Sahara and to report thereon to the Assembly at its seventy-first session; and invited the Secretary-General to submit to the Assembly at its seventy-first session a report on the implementation of the resolution.